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statute required all railroads carrying passengers in the state to provide equal but separate accommodation for the white and colored races. *Held*, that the statute is constitutional. *Alabama & Vicksburg Ry. Co.* v. *Morris*, 60 So. 11 (Miss.).

In absence of federal legislation, the state's power to regulate matters not requiring national uniformity, though affecting interstate commerce, is well settled. *Cooley* v. *Board of Wardens of Port of Philadelphia*, 12 How. (U. S.) 299; *Plumley's Case*, 156 Mass. 236. Thus states may forbid the operation of all freight trains on Sunday. *Hennington* v. *Georgia*, 163 U. S. 299, 16 Sup. Ct. 1086. Or regulate the speed of trains passing through cities. *Erb* v. *Morasch*, 177 U. S. 584, 20 Sup. Ct. 819. Or prescribe licenses for all engineers operating trains in the state. *Smith* v. *Alabama*, 124 U. S. 465, 8 Sup. Ct. 564. As in these cases, the principal case involved regulation of interstate commerce only as incidental to a general regulation. Local regulation seems peculiarly necessary here because of the divergent racial conditions in different sections of the country. *Smith* v. *State*, 100 Tenn. 494, 46 S. W. 566. But the argument that state regulation is invalid since uniformity is necessary to protect interstate passengers from frequent changing of coaches in case of variation in state legislation has often prevailed. *State ex rel. Abbot* v. *Hicks*, 44 La. Ann. 770, 11 So. 74; *Hart* v. *State*, 100 Md. 595, 60 Atl. 457; *Carrey* v. *Spencer*, 72 N. Y. St. 108, 36 N. Y. Supp. 886. But this was not thought sufficient to invalidate a state's regulation as to heating apparatus on all coaches, although inconsistent regulation might compel the use of different cars in different states. *New York, N. H. & H. R.* v. *New York*, 165 U. S. 628, 17 Sup. Ct. 418. Moreover, legislation incompatible with that in the principal case is impossible, since statutes forbidding racial separation in all coaches are unconstitutional. *Hall* v. *De Cuir*, 95 U. S. 485. The principal case seems clearly within the police power, since separation of races in common carriers is recognized as its proper exercise. *Plessy* v. *Ferguson*, 163 U. S. 537, 16 Sup. Ct. 1138; *Chesapeake & Ohio Ry. Co.* v. *Kentucky*, 179 U. S. 388, 21 Sup. Ct. 101. This is consistent with the unconstitutionality of statutes forbidding racial separation, since enforced racial intermingling cannot be a valid exercise of the police power. *Smith* v. *State*, *supra*.

INTERSTATE COMMERCE — WHAT CONSTITUTES INTERSTATE COMMERCE — TERMINI WITHIN ONE STATE OF ROUTE PARTLY WITHIN ANOTHER STATE. — The defendant, agent of an express company, was convicted for failure to pay a tax imposed by the plaintiff on the business of express companies in receiving and transmitting packages from and to places within the state "excepting such packages which are interstate commerce." The route used by the defendant for carrying express packages to or from this city, though the other terminus was within the state, ran for a considerable distance through another state. *Held*, that the conviction is not error. *Ewing* v. *City of Leavenworth*, 226 U. S. 464, 33 Sup. Ct.

Under the wording of the statute the court necessarily holds that this was not interstate commerce. The opposite result was reached when the question was whether the state could regulate the rates for such transportation. *Hanley* v. *Kansas City Southern Ry. Co.*, 187 U. S. 617, 23 Sup. Ct. 214. Under a similar set of facts a tax on the receipts proportionate to the mileage was upheld, and the court rests its decision on this case. *Lehigh Valley R. Co.* v. *Pennsylvania*, 145 U. S. 192, 12 Sup. Ct. 806. See 16 HARV. L. REV. 597. The result is desirable since the tax is clearly not contrary to the purpose of the Commerce Clause. But it is submitted that there can be no ground for holding that the transportation is interstate commerce for one purpose and not for another.